

REMARKS

Allowable Subject Matter:

As an initial matter, Applicant sincerely thanks the Examiner for indicating that claims 1-14 are allowed. Additionally, Applicant thanks the Examiner for indicated that claim 36 has been objected to, but this claim would be allowable if written in independent form.

Accordingly, Applicant has amended claim 29 by incorporating the subject matter of claim 36, which has been canceled. As such, Applicant submits that claim 29 is now allowable. Further, as claims 30-35, 37, 39-41 and 43-44 depend on claim 29, Applicant submits that these claims are also allowable, at least by reason of their dependence.

Further, Applicant submits that claim 29 is now simply claim 36 written in independent form, and the original scope or spirit of claim 36 has been maintained.

Claim Rejections:

Claims 1-24, 26-37 and 39-44 are all of the claims pending in the present application and currently claims 15-24, 26-35, 37 and 39-44 stand rejected.

35 U.S.C. § 102(e) Rejection - Claims 15-16, 18, 20-21, 23-24 and 26-28:

Claims 15-16, 18, 20-21, 23-24 and 26-28 continue to stand rejected under 35 U.S.C. § 102(e) as being anticipated by the '009 Risch reference. In view of the following discussion, Applicant continues to disagree with the Examiner and respectfully traverses the above rejection.

As a preliminary matter, Applicant notes that on page 3 of the December 17, 2003 Office Action (top of page), the Examiner has referenced claim 1 in the rejection using the '009 reference. However, as indicated previously, claim 1 has been allowed. Further, the entire paragraph is copied from the previous office action dated May 28, 2003, and is the same

paragraph that was used to reject claim 1 in that office action. Thus, it appears that the wrong rejection from the May 28, 2003 office action was mistakenly placed in the present office action. Because of this, Applicant notes that there is no clear rejection of claim 15, except what is found in the May 28, 2003 office action.

Therefore, Applicant will presume that the Examiner intended to maintain the previous claim 15 rejection, rather than the claim 1 rejection. If Applicant's presumption is incorrect, Applicant hereby requests the Examiner clarify the pending rejection. Accordingly, the following arguments will be directed towards the May 28, 2003 rejection of claim 15.

Turning now to claim 15, Applicant continues to submit that Risch has little or no relevance to claim 15. Namely, Risch fails to disclose having a gel-swellable layer come in contact with an outer layer of the optical fiber.

Claim 15 recites that "a gel -swellable portion contact[s] an outer surface of [the] optical fiber." *See* claim 15. Applicant notes that there is no disclosure or suggestion, in Risch '009, of having the fibers come in contact with the buffer tubes 12. In fact, Applicant submits that it is known that it is desirable to avoid contact between buffer tubes and optical fibers. Therefore, Applicant submits that Risch '009 fails to disclose each and every feature of claim 15, either expressly or inherently.

Further, in rejecting claim 15 (as set forth in the May 28, 2003 Office Action, page 4) the Examiner asserts that "Risch et al discloses that i-PP buffer tubes swell more than 10% at 85°C in various water blocking gels (Fig. 2)." Applicant submits that this supports Applicant's position. Namely, Risch '009 fails to disclose having the buffer tubes contacting any of the fibers. As indicated previously, this is undesirable as the performance of the fiber can be

adversely affected by contacting the buffer tubes. As such, the Examiner can not rely on the buffer tubes of Risch '009 as disclosing "a gel-swellaable portion contacting an outer surface of [the] optical fiber." This is simply not disclosed in Risch '009. The present invention, in claim 15, uses a gel-swellaable layer on the fibers to provide protection and cushioning. This is not disclosed, taught or suggested in Risch '009.

Further, the Examiner's assertion that the fibers will make contact with the buffer tubes is insufficient to anticipate the present invention. Under the provisions of 35 U.S.C. § 102(e) the reference must disclose "each and every" feature of the claimed invention. The Examiner's assertion is simply not disclosed within Risch, nor is it inherent.

In view of the foregoing, Applicant submits that Risch '009 fails to disclose each and every feature of the present invention, as set forth in claim 15. Therefore, Risch '009 fails to anticipate the claimed invention as required under the provisions of 35 U.S.C. § 102(e). Accordingly, Applicant hereby requests the Examiner reconsider and withdraw the above 35 U.S.C. § 102(e) rejection of this claim. Further, as claims 16, 18, 20-21, 23-24 and 26-28 depend on claim 15, Applicant submits that these claims are also allowable, at least by reason of their dependence.

35 U.S.C. § 102(b) Rejection - Claims 29-30, 32, 34 and 44:

Claims 29-30, 32, 34 and 44 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the newly applied U.S. Patent No. 5,031,996 to Saller et al. However, as indicated above, claim 29 has been amended to include the allowable subject matter of claim 36. Accordingly, Applicant submits that the above referenced claims are now in allowable condition.

35 U.S.C. § 103(a) Rejection - Claims 17, 19 and 22:

Claims 17, 19 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Risch '009. However, as these claims depend on claim 15, Applicant submits that these claims are allowable, at least by reason of their dependence.

35 U.S.C. § 103(a) Rejection - Claims 31, 33, 35, and 41:

Claims 31, 33, 35 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Saller reference. However, as indicated above, because these claims depend on allowable claim 29, Applicant submits that these claims are also allowable.

35 U.S.C. § 103(a) Rejection - Claim 42:

Claims 42 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Saller reference. However, Applicant notes that claim 42 depends on claim 15. Applicant submits that Saller does not teach or suggest each and every limitation of claim 15, and as such, fails to teach or suggest each and every feature of claim 42. For example, Saller fails to teach or suggest at least having "a gel -swellable portion contact[s] an outer surface of [the] optical fiber." See claim 15.

Therefore, Applicant hereby requests the Examiner reconsider and withdraw the above 35 U.S.C. § 103(a) rejection of claim 42 in view of Saller.

35 U.S.C. § 103(a) Rejection - Claims 37, 39, 40 and 43:

Claims 37, 39, 40 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saller in view of Risch '009. However, as indicated above, claim 29 has been amended to include the allowable subject matter of claim 36. Accordingly, Applicant submits that the above referenced claims are now in allowable condition.

AMENDMENT UNDER 37 C.F.R. §1.111
Application Number 09/851,249

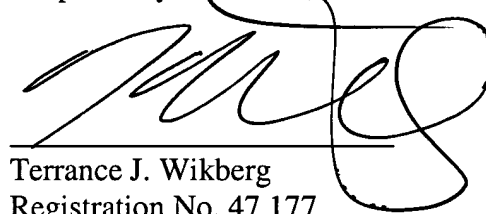
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Conclusion:

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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